

United States District Court

for the

Western District of New York

In the Matter of the Search of The Search Of Information Associated With Facebook Account

(Briefly describe the property to be searched or identify the person by name and address.)

Facebook Screen Name: "Sean Robert Ward" with the Vanity Name: "FxAxCxEx"

**Case No. 17-MJ-1165
(Filed Under Seal)**

THAT IS STORED AT PREMISES CONTROLLED BY FACEBOOK.

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

See, Attachment A, Property to be Searched

located in the Northern District of California, there is now concealed *(identify the person or describe the property to be seized)*:

See, Attachment B, Particular Items to be Seized.

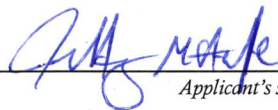
The basis for search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to violations of Title 18, United States Code, Sections 2252A(a)(2)(A) and 2252A(a)(5)(B).

The application is based on these facts:

- ☐ continued on the attached sheet.
- ☒ Delayed notice of 30 days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



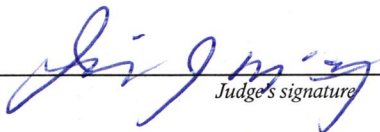
Applicant's signature

**JEFFREY MCAULIFFE
TASK FORCE OFFICER
FEDERAL BUREAU OF INVESTIGATION**

Printed name and title

Sworn to before me and signed in my presence.

Date: November 29, 2017



Judge's signature

City and state: Buffalo, New York

**JEREMIAH J. MCCARTHY
UNITED STATES MAGISTRATE JUDGE**

Printed name and Title

AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

I, Jeffrey McAuliffe, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with certain Facebook Accounts that are stored at premises owned, maintained, controlled, or operated by Facebook, Inc. ("Facebook"), a social networking company headquartered at 1601 Willow Road, Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachments A and B. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscribers or customers associated with the Facebook Screen Name; "Sean Robert Ward" with the Vanity Name; "FxAxCxEx".

2. I am an Investigator employed by the Niagara County Sheriff's Office, Bureau of Criminal Investigation, located in the County of Niagara, State of New York. I have been employed by the Niagara County Sheriff's Office since 2000. I am currently assigned as a Task Force Officer ("TFO") to the Federal Bureau of Investigation ("FBI"),

Buffalo Field Office, Violent Crimes Against Children Task Force, Innocent Images National Initiative, which targets individuals involved in the on-line sexual exploitation of children, and have been so since January, 2014. As part of my daily duties as a Task Force Officer with the FBI, I investigate crimes involving child exploitation and child pornography including violations of Title 18, United States Code, Sections 2251, 2252, and 2252A (Producing, Receiving, or Possessing Child Pornography). I have received specialized training in the area of child pornography and child exploitation, and I have participated in investigations of persons suspected of violating federal child pornography laws, including Title 18, United States Code, Sections 2251, 2252, and 2252A. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal child pornography laws in which computers are used as the means for receiving, transmitting, and storing child pornography.

3. The facts in this Affidavit are based upon my personal observations, my training and experience, and information obtained from other law enforcement personnel and witnesses. This Affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based upon my training and experience and the facts set forth in this Affidavit, there is probable cause to believe that violations of 18 U.S.C. Sections 2252A(a)(2)(A) [Receipt of Child Pornography] and 2252A(a)(5)(B) [Possession of Child Pornography], have been committed by SEAN ROBERT WARD (hereinafter "WARD").

There is also probable cause to search the information described in Attachment A for evidence of these crimes, as described in Attachment B.

5. The relevant statutory language for the purposes of this Affidavit, Title 18 United States Code, Section 2252A, states, in relevant part:

(a) Any person who --

(a)(2)(A) Knowingly receives or distributes any child pornography that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer

(a)(5)(B) Knowingly possesses, or knowingly accesses with intent to view, any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer

Shall be punished as provided in subsection (b).

PROBABLE CAUSE

6. On January 6, 2017, patrol officers from the City of Marshalltown Police Department (Iowa) began investigating a complaint related to child pornography by subject, Darrin Potter. During the initial investigation, patrol officers were able to locate Potter's phone and confirm that it belonged to Potter, after which it was seized.

7. On January 12, 2017, a search warrant was signed by the District Associate Judge Kim Riley of the Iowa State District Court authorizing the search of the phone

belonging to Potter. After the search warrant was executed, Detective Randall Kessler of the Marshalltown PD examined the contents of Potter's phone.

8. On February 16, 2017, Detective Randall Kessler observed several instances wherein images constituting child pornography were found to be traded within the Facebook Messenger account on the phone. Among the messages from December 10, 2016, Detective Kessler observed several photos of adult males having sexual intercourse with what appeared to be pre-pubescent females. These images were observed as having been sent from Potter's Facebook Messenger account to the Facebook Messenger account of Sean Robert WARD (facebook.com/FxAxCxEx). Your affiant has viewed said images and has concluded that based on my training and experience, the images constitute child pornography.

9. On September 9, 2017, a subpoena was served upon Facebook, Inc. The subpoena requested subscriber information for the account of <https://www.facebook.com/FxAxCxEx> in the name of Sean Robert Ward.

10. On September 15, 2017, Facebook provided a response to the subpoena. Included in the response was the phone number provided by the user at the time of the creation of the account: 1-585-286-0977. Also provided in the response was the email account provided by the user at the time of the creation of the account: mediwitinal@yahoo.com.

11. On October 17, 2017, a public records search was conducted by Detective Kessler. The search focused on the email account: mediwitinal@yahoo.com, which was provided by Facebook, Inc. in the subpoena return. The result of the search provided the name: "Sean Ward." Follow-up searching by Detective Kessler resulted in identifying the most recent address for WARD as being 1346 Michigan Avenue, Niagara Falls, NY.

12. On October 26, 2017, your affiant received the investigative packet conducted by the Marshalltown PD.

13. On November 7, 2017, as part of my investigation, these images were reviewed and it was determined that there were 11 images sent from Potter's Facebook Messenger account to the Facebook Messenger account of WARD. Based on my training and experience, each of these images is believed to constitute child pornography.

14. Included in the table below is a summary of three (3) of the child pornography images found on the phone that were sent to WARD from Potter via Facebook messenger. The file-name for each image indicates the screenshot which contains the corresponding image. The dates associated with each file is the date that appears above the image within the Facebook Messenger conversation.

File Name	Date Associated	Description
Image0004.jpg	12/10/2016	Adult white male with erect penis penetrating the vagina of a prepubescent white female who is approximately 8-10 years of age.

File Name	Date Associated	Description
Image0004.jpg	12/10/2016	Prepubescent white female, approximately 10 years of age giving oral sex to an adult white male.
Image0006.jpg	12/10/2016	Adult white male with erect penis penetrating the vagina of a prepubescent white female who is approximately 10 years of age.

15. While reviewing the images sent from Potter to WARD, I was also able to review the reply messages sent from WARD after receiving said images. The messages indicate WARD's acknowledgement and receipt of the above images. In one instance, Potter sent WARD an image constituting child pornography. The message which accompanies the image states; "She's 15 enjoy. I talked to her earlier tonight". WARD's responds to the message by saying; "Wow ty lol". Based on my training and experience, I understand "ty" to mean thank you and "lol" to mean laugh out loud.

FACEBOOK

16. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

17. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

18. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

19. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to

facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

20. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

21. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

22. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient's "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

23. If a Facebook user does not want to interact with another user on Facebook, the first user can "block" the second user from seeing his or her account.

24. Facebook has a "like" feature that allows users to give positive feedback or connect to particular pages. Facebook users can "like" Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become "fans" of particular Facebook pages.

25. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

26. Each Facebook account has an activity log, which is a list of the user's posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as "liking" a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user's Facebook page.

27. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs ("blogs"), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

28. The Facebook Gifts feature allows users to send virtual "gifts" to their friends that appear as icons on the recipient's profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other "pokes," which are free and simply result in a notification to the recipient that he or she has been "poked" by the sender.

29. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

30. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

31. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications.

32. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

33. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

34. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's "Neoprint," IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example,

as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to “tag” their location in posts and Facebook “friends” to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner’s state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner’s motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

35. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED


36. Based on the foregoing, there is probable cause to believe, that the Facebook account that is stored at premises owned, maintained, controlled, or operated by Facebook, Inc., a provider headquartered at 1601 Willow Rd, Menlo Park, CA ("Facebook"), namely account Screen Name; "Sean Robert Ward", Vanity Name; "FxAxCxEx" contains evidence of violations of Title 18, United States Code, Sections 2252A(a)(2)(A) and 2252A(a)(5)(B). I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrants to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachments B, government-authorized persons will review that information to locate the items described in Attachment B.

CONCLUSION

37. Based on the above information, I submit that there is probable cause that the items and information sought to be searched and seized, as outlined in Attachment A and B, will provide evidence of violations of Title 18, United States Code, Sections 2252A(a)(2)(A) and 2252A(a)(5)(B).

38. Finally, it is respectfully requested that this Court issue an Order sealing, for 60 days, all papers submitted in support of this Application, including the Application,

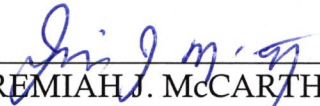
Affidavit, and Search Warrant, and the required inventory notice (with the exception of one copy of the warrant and the inventory notice that will be left at the accounts/premises to be searched).



Jeffrey McAuliffe
Task Force Officer
Federal Bureau of Investigation

Sworn and subscribed to before

me this 29th day of November, 2017.



JEREMIAH J. MCCARTHY
United States Magistrate Judge

ATTACHMENT A

PROPERTY TO BE SEARCHED

This warrant applies to information associated with the Facebook account:

(1) Facebook Screen Name: "Sean Robert Ward" with the Vanity Name:
"FxAXCxEx"

stored at premises owned, maintained, controlled, or operated by Facebook, Inc., a
company headquartered at 1601 Willow Rd., Menlo Park, California.

ATTACHMENT B

PARTICULAR THINGS TO BE SEIZED

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook Inc. ("Facebook"), including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for the user IDs listed in Attachment A:

- (a) All contact and personal identifying information, including; full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by each user ID and all photos and videos uploaded by any user that have that user tagged in them;
- (d) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;
- (e) All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending "Friend" requests;
- (f) All "check ins" and other location information;
- (g) All IP logs, including all records of the IP addresses that logged into the account;

- (h) All records of the account's usage of the "Like" feature, including all Facebook posts and all non-Facebook webpages and content that the user has "liked";
- (i) All information about the Facebook pages that the account is or was a "fan" of;
- (j) All past and present lists of friends created by the account;
- (k) All records of Facebook searches performed by the account;
- (l) All information about the user's access and use of Facebook Marketplace;
- (m) The types of service utilized by the user;
- (n) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- (o) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (p) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

II. Information to be Searched For and Seized by the Government

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of Title 18 United States Code, Sections 2252A(a)(2)(A) [Receipt of Child Pornography] and 2252A(a)(5)(B) [Possession of Child Pornography], including, for each user ID identified in Attachment A, information pertaining to the following matters:

- (a) Communication between the Facebook account and account(s) associated with individuals who have communicated with WARD in furtherance of WARD's trading of child pornography;

- (b) Evidence indicating how and when the Facebook account was accessed or used, to determine the chronological and geographic context of account access, use, and events relating to the crime under investigation and to the Facebook account owner.